

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 730

Introduced by Assembly Member De La Torre

February 26, 2009

An act to amend ~~Sections 394 and~~ *Section* 10400 of the Insurance Code, relating to health insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 730, as amended, De La Torre. Health insurance: unlawful postclaims underwriting of policy: penalties.

~~Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law provides that the Insurance Commissioner may approve insurance policies and associated materials in languages other than English, if certain conditions are met, including that the English version is the official version. Under existing law, the commissioner is required to promulgate regulations requiring every health insurer to provide insureds with appropriate access to translated written materials and oral interpretation services in obtaining covered benefits under individual and group policies of health insurance, as specified.~~

~~This bill would specify that individual and group policies of health insurance are subject to the latter requirements and not the former provisions.~~

Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a health insurer from engaging in the practice of postclaims underwriting, which is defined

to mean the rescinding, canceling, or limiting of a health insurance policy or certificate due to the insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an insurance application. Existing law provides that any person willfully violating various provisions governing disability insurance policies, including health insurance policies, or orders of the commissioner in that regard, shall forfeit to the state a sum not to exceed \$118 for each violation.

This bill would provide that a health insurer that unlawfully engages in the postclaims underwriting of a health insurance policy shall be liable to the state for a civil penalty to be fixed by the commissioner in an amount not to exceed \$5,000, except that if the insurer knew, or had reason to know, that the act of postclaims underwriting was unlawful, the civil penalty shall be fixed by the commissioner in an amount not to exceed \$10,000 for each act or violation. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 394 of the Insurance Code is amended~~
2 ~~to read:~~
3 ~~394. (a) Except as provided in subdivision (e), the~~
4 ~~commissioner may approve insurance policies and associated~~
5 ~~materials in languages other than English if the following~~
6 ~~conditions are met:~~
7 ~~(1) The policyholder is given a copy of the same material in~~
8 ~~English.~~
9 ~~(2) The English version is the official version.~~
10 ~~(3) A policyholder document in a language other than English~~
11 ~~shall contain a disclosure statement in both that language and in~~
12 ~~English that states that the English version is the official version~~
13 ~~and the foreign language version is for informational purposes~~
14 ~~only.~~
15 ~~(b) An insurer that knowingly misrepresents information~~
16 ~~provided in a language other than English shall be subject to Article~~
17 ~~6.5 (commencing with Section 790) of Chapter 1 of Part 2.~~
18 ~~(c) Policies of health insurance, as defined by Section 106, and~~
19 ~~associated materials in languages other than English shall not be~~

1 ~~subject to subdivision (a) and shall instead be subject to Sections~~
2 ~~10133.8 and 10133.9.~~

3 ~~SEC. 2.~~

4 *SECTION 1.* Section 10400 of the Insurance Code is amended
5 to read:

6 10400. (a) Any person willfully violating any provision of this
7 chapter or order of the commissioner made in accordance therewith
8 shall be liable to the state for a civil penalty to be fixed by the
9 commissioner in an amount not to exceed one hundred eighteen
10 dollars (\$118) for each violation. The commissioner may also
11 suspend or revoke the license of an insurer or agent for any willful
12 violation in that regard.

13 (b) Notwithstanding subdivision (a), a health insurer that
14 unlawfully engages in the postclaims underwriting of a health
15 insurance policy, as defined in Section 10384, shall be liable to
16 the state for a civil penalty to be fixed by the commissioner, in an
17 amount not to exceed five thousand dollars (\$5,000) for each act
18 of postclaims underwriting of a policy, except that if the insurer
19 knew, or had reason to know, that the act of postclaims
20 underwriting was unlawful, the civil penalty shall be fixed by the
21 commissioner in an amount not to exceed ten thousand dollars
22 (\$10,000) for each act or violation.

23 (c) *The civil penalties and disciplinary actions provided for in*
24 *this section shall be determined at a hearing conducted in*
25 *accordance with the Administrative Procedure Act (Chapter 5*
26 *(commencing with Section 11500) of Part 1 of Division 3 of Title*
27 *2 of the Government Code), and the commissioner shall have all*
28 *the powers granted by that act.*